

AMENDED IN SENATE JUNE 26, 2007

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 844

Introduced by Assembly Members Berryhill and Maze

(Principal coauthor: Assembly Member Galgiani)

(Principal coauthors: Senators Cogdill and Maldonado)

(Coauthors: Assembly Members Emmerson, Garcia, Ma, and Parra)

(Coauthor: Senator Denham)

February 22, 2007

An act to add Sections 21608.5 and 21610 to the Business and Professions Code, relating to junk dealers.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, as amended, Berryhill. Junk dealers and recyclers: nonferrous material.

Existing law requires junk dealers and recyclers, as defined, to keep written records of all sales and purchases made in the course of their business. Existing law requires these records to include specified information, including, among other things, the place and date of each sale or purchase of junk, a description of the item of junk, and the personal and vehicle information of the person purchasing or transporting the junk. Existing law exempts certain purchases of scrap

metals by a junk dealer or recycler from these provisions. A violation of these provisions regulating junk dealers and recyclers is a crime.

This bill would prohibit a junk dealer or recycler from providing payment for nonferrous material, as defined, unless, except as specified, the payment is made by check, the check is provided no earlier than 3 days after the date of sale, and the dealer or recycler obtains certain identifying information, as specified, to be retained by the dealer or recycler for a certain period of time. The bill would specify that this provision does not apply to the redemption of nonferrous materials of a certain value at a recycling center, as specified, or to coin dealers or automobile recyclers. The bill would also prohibit a city, county, city and county, or a state agency from adopting reporting, identification, or payment requirements for transactions by junk dealers or recyclers involving nonferrous material, except as specified.

Because a violation of the bill's provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21608.5 is added to the Business and
- 2 Professions Code, to read:
- 3 21608.5. (a) A junk dealer or recycler in this state shall not
- 4 provide payment for nonferrous material unless, in addition to
- 5 meeting the written record requirements of Sections 21605 and
- 6 21606, all of the following requirements are met:
- 7 (1) The payment for the material is made by check.
- 8 (2) The junk dealer or recycler provides the check no earlier
- 9 than three business days after the date of sale. The check may be
- 10 mailed to the seller or may be collected by the seller from the junk
- 11 dealer or recycler.
- 12 (3) The junk dealer or recycler obtains a photograph and an
- 13 address of the seller, or a copy of the valid driver's license of the
- 14 seller containing a photograph and an address of the seller, or a

1 copy of a state or federal government-issued identification card
2 containing a photograph and an address of the seller. The junk
3 dealer or recycler shall preserve the photograph and the address
4 or the copies obtained pursuant to this paragraph for a period of
5 two years after the date of sale.

6 (b) The requirements of paragraphs (1) and (2) of subdivision
7 (a) shall not apply if, during any three-month period commencing
8 on or after the effective date of this section, the junk dealer or
9 recycler completes five or more separate transactions per month
10 with the seller, and in order for the requirements of paragraphs (1)
11 and (2) of subdivision (a) to continue to be inapplicable, the seller
12 must continue to complete five or more separate transactions per
13 month with the junk dealer or recycler.

14 (c) The requirement of paragraph (2) of subdivision (a) shall
15 not apply if, in addition to obtaining the identifying information
16 required in paragraph (3) of subdivision (a), the junk dealer or
17 recycler obtains a photograph of the nonferrous material being
18 purchased. This photograph shall be preserved for a period of two
19 years after the date of sale.

20 (d) This section shall not apply if, on the date of sale, the junk
21 dealer or recycler has on file or receives all of the following
22 information:

23 (1) The name, physical business address, and business telephone
24 number of the seller's business.

25 (2) The business license number or tax identification number
26 of the seller's business.

27 (3) A copy of the valid driver's license of the person delivering
28 the nonferrous material on behalf of the seller to the junk dealer
29 or the recycler.

30 (e) This section shall not apply to the redemption of nonferrous
31 material having a value of not more than twenty dollars (\$20) in
32 a single transaction, when the primary purpose of the transaction
33 is the redemption of beverage containers under the California
34 Beverage Container Recycling and Litter Reduction Act, as set
35 forth in Division 12.1 (commencing with Section 14500) of the
36 Public Resources Code. For purposes of this subdivision, "primary
37 purpose" means the value of the beverage containers being
38 redeemed is greater than the value of the nonferrous material being
39 sold.

1 (f) This section shall not apply to coin dealers or automobile
2 recyclers.

3 (g) For the purposes of this section, “nonferrous material” means
4 copper, copper alloys, stainless steel, or aluminum but does not
5 include beverage containers, as defined in Section 14505 of the
6 Public Resources Code.

7 SEC. 2. Section 21610 is added to the Business and Professions
8 Code, to read:

9 21610. ~~(a)~~—This article shall not prohibit the enactment,
10 amendment, or enforcement of an ordinance or resolution by a
11 city, county, or city and county relating to junk dealers or recyclers
12 that is consistent with this article, except that no city, county, city
13 and county, or state agency shall adopt reporting, identification,
14 or payment requirements for transactions by junk dealers or
15 recyclers involving nonferrous material as defined in Section
16 21608.5.

17 ~~(b) Notwithstanding subdivision (a), this article shall not prohibit~~
18 ~~the enforcement of a local ordinance that imposes requirements~~
19 ~~on junk dealers or recyclers that are greater than or more stringent~~
20 ~~than those provided in Section 21608.5.~~

21 SEC. 3. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.